III. REMARKS

Claims 1-23 are currently pending in the application and the Office Action rejected Claims 1-23. By the foregoing amendments, Applicants amended Claims 1, 6-9, 13 and 14; cancelled Claims 5 and 10 without prejudice; and added new Claims 24-30 to further clarify, more clearly define and/or broaden the claimed invention, and expedite receiving a notice of allowance. Pursuant to 37 C.F.R. § 1.121(f), no new matter is introduced by these amendments. Applicants believe that Claims 1-4, 6-9 and 11-30 are now in condition for allowance.

Please note that Applicants' remarks are presented in the order in which the issues were raised in the Office Action for the convenience and reference of the Examiner. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants understanding and discussion of the references, if any, is consistent with the Examiner. Further, the following remarks are not intended to be an exhaustive enumeration of the distinctions between any particular reference and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and that reference.

Response to the Section 103(a) Rejection

The Office Action rejected Claims 1, 3, 4, 9 and 11 under 35 U.S.C. § 103(a) as being unpatentable over United States patent no. 3,970,304 issued to Ebstein, et al., in view of United States patent no. 3,365,196 issued to Miller. The Office Action states that the Ebstein patent discloses the elements of Claim 1 (Fig. 1); however, it fails to clearly disclose the use of a rim

assembly including a pair of support arms. The Office Action states that the Miller patent discloses the use of a rim assembly including a pair of support arms (Figs. 1, 7). The Office Action also states that various types of basketball rims are well known in the art. The Office Action concludes that it would have been obvious to one of ordinary skill in the art at the time of the invention to have employed the rim assembly of Miller with the apparatus of Ebstein in order to provide a more dynamic goal for the player.

In addition, the Office Action states as to Claim 3, the Ebstein patent discloses a rim assembly attachment means that is behind a plane aligned with the front surface (Fig. 1). The Office Action states that as to Claim 4, the Ebstein patent discloses a frame cutout (Fig. 1). Further, the Office Action states that as to Claim 9, see the Claim 1 rejection and as to Claim 11, the Ebstein patent discloses a backboard support that extends below a lower portion of the backboard (Fig. 1).

Applicants respectfully traverse this rejection because neither the Miller nor Ebstein patents, either alone or in combination, teach, suggest or disclose each and every element of Claims 1, 3, 4, 9 and 11. Nevertheless, in order to clarify, more clearly define and/or broaden the claimed invention, and expedite receiving a Notice of Allowance, Applicants amended Claims 1 and 9.

In particular, Applicants cancelled Claim 5 and amended Claim 1 to provide "a resistance mechanism interconnecting the elongated members of the support frame and the support arms of the rim assembly." Thus, Claim 1 now positively recites the **resistance mechanism interconnects the elongated members of the support frame and the support arms of the rim assembly**. Because neither the Ebstein nor Miller patents, either alone or in combination, teach, suggest or disclose each of the elements of Claim 1, Applicants respectfully request that this Section 103(a) rejection of

Claim 1 be withdrawn. Applicants also request that the rejection of Claims 3 and 4 be withdrawn at least because these claims are dependent upon Claim 1.

Applicants also cancelled Claim 10 and amended Claim 9 to provide "the elongated connector including a resistance mechanism." Thus, Claim 9 now positively recites **the elongated connector including a resistance mechanism**. Because neither the Ebstein nor Miller patents, either alone or in combination, teach, suggest or disclose each of the elements of Claim 9, Applicants respectfully request that this Section 103(a) rejection of Claim 9 be withdrawn. Applicants also request that the rejection of Claim 11 be withdrawn at least because this claim is dependent upon Claim 9.

Response to the Provisional Double Patenting Rejection

The Office Action rejected Claims 1-23 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-27 of copending patent application serial no. 10/737,034. The Office Action stated that although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the application are simply broader than the patent claims and clearly "read" on the claims in the patent. The Office Action also stated that this is a provisional obviousness-type double patenting because the conflicting claims have not in fact been patented.

Applicants respectfully traverse this provisional double patenting rejection. However, as stated in the Office Action, a timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(c) may be used to overcome an actual or provisional rejection based on a non-statutory double

patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. § 1.130(b).

Accordingly, in order to expedite receiving a Notice of Allowance, Applicants submit herewith a timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(c). Applicants also submit herewith a Certificate under 37 C.F.R. § 3.73(b) establishing that United States patent application serial no. 10/737,034 is commonly owned by the Assignee of this application, Lifetime Products, Inc.

In addition, Lifetime Products, Inc. is the owner of this application because the inventors, S. Curtis Nye and Carl R. Stanford, assigned their entire right, title and interest in the application to Lifetime Products, Inc. and this document was recorded in the United States Patent and Trademark Office on September 7, 2004 at 015110/Frame 0003. Accordingly, Applicants request that this provisional double patenting rejection be withdrawn. This terminal disclaimer is accompanied by the fee set forth in 37 C.F.R. § 1.20(d) in the amount of $130.00.

New Claims

New Claims 24-30 have been added to more fully define the Applicants' invention and are believed to be fully distinguished over the prior art of record.

CONCLUSION

In view of the foregoing, Applicant submits that Claims 1-4, 6-9 and 11-30 are allowable over the cited references and are in condition for allowance. Accordingly, Applicant requests that a

Re. : Amendment and Response to Office Action Dated July 27, 2005
Appl. No. : 10/802,433
Filed : March 17, 2004

Notice of Allowance be promptly issued.

If any further impediments to allowance of this application remain, the Examiner is cordially invited to contact the undersigned by telephone so that these remaining issues may be promptly resolved.

The Commissioner is authorized to charge payment of any additional fees associated with this communication, which have not otherwise been paid, to Deposit Account No. 23-3178. If any additional extension of time is required, which have not otherwise been requested, please consider this a petition therefore and charge any additional fees that may be required to Deposit Account No. 23-3178.

Respectfully submitted,

Dated: November 28, 2005

By: _____

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